

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**ESTATE OF JERMAINE CLAYBROOKS,  
By Co-Special Administrators, JOAN  
McCANTS and KENYANNA ALLEN,  
BIOLOGICAL MINOR CHILDREN J.J.C.,  
By and through KEYANNA ALLEN, as  
Parent and guardian, and J.D.C., by and  
Through MARKIA S. LOVE, as parent and  
Guardian,  
Plaintiffs,**

**v.**

**Case No. 19-CV-160**

**MILWAUKEE POLICE OFFICERS JOHN SCHOTT,  
MARTEZ BALL, and JOHN IVY, WEST ALLIS  
POLICE OFFICERS TODD KURTZ and  
DANIEL DITTORRICE,  
Defendants.**

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**ORDER**

The plaintiffs were represented by counsel when they filed this action more than three years ago. However, they were left to proceed pro se when their attorneys withdrew months into litigation. This posed a problem, I explained at an April 28, 2020, status conference, because “legal entities, including estates, must be represented by legal counsel.” ECF No. 42. Accordingly, I “stay[ed] any and all deadlines and direct[ed] the clerk to close the administrative file.” *Id.* I instructed Joan McCants “to alert both the Court and the Defendants in the event she is able to secure legal representation and able to resume this case.” *Id.* Having waited diligently for McCants to comply with my instructions, Defendants Todd Kurtz and Daniel Dittorrice now move to dismiss this action with prejudice for failure to prosecute under Federal Rule of Civil Procedure 41(b). ECF No. 43.

Although it is true that “dismissal for failure to prosecute is a harsh sanction which should usually be employed only in extreme situations,” I find that it is warranted here due to the plaintiffs’ “clear record of delay.” *Martinez v. City of Chicago*, 499 F.3d 721, 727 (7th Cir. 2007) (quoting *Grun v. Pneumo Abex Corp.*, 163 F.3d 411, 425 (7th Cir. 1998)). Twenty-two months have passed since I instructed McCants to secure legal counsel, and she has not once communicated with the court. In addition, the plaintiffs have not responded to the last two dispositive motions filed in this case. This pattern of non-responsiveness demonstrates that the plaintiffs are not diligently prosecuting this action.

**IT IS THEREFORE ORDERED** that Todd Kurtz and Daniel Dittorrice’s motion to dismiss for failure to prosecute is **GRANTED**. This action is **DISMISSED WITH PREJUDICE**.

Dated at Milwaukee, Wisconsin, on this 3rd day of March, 2022.

s/Lynn Adelman  
LYNN ADELMAN  
United States District Judge